THE HON'BLE MRS. JUSTICE T. MEENA KUMARI
And
THE HON'BLE MS. JUSTICE G ROHINI

W.P. No. 22812 of 2007

ORDER (per Hon'ble Mrs. Justice T Meena Kumari) :

This writ petition is filed by way of Writ of Mandamus seeking to declare the action of the respondent in passing the penalty proceedings for the year 2003-04, dated 14-05-2007, without issuing any notice, as arbitrary, contrary to the provisions of the Act and to set aside the same.

Petitioner is a proprietary concern represented by its Proprietor and he filed the affidavit filed in support of the writ petition. It is stated in the affidavit that the petitioner is proprietary concern carrying on business in Wheat products, dalls, copra, peas, vanaspathi oils, rice etc., and registered as a dealer on the rolls of the respondent under A.P. General Sales Tax Act and Central Sales Tax Act. It is also stated that for the assessment year 2003-04, the respondent has passed the impugned proceedings dt. 14-05-2007 levying a penalty of Rs.78,972/- under Section 14(1-A) of the APGST Act without issuing any show cause notice to him, on the ground of non-furnishing of audit report as contemplated under Rule 17(5-A) of the APGST Rule. It is further stated in the affidavit that the impugned proceeding was served on him on 16.05.2007 and he could not make efforts to challenge the same before the appellate authority due to personal inconvenience. It is further stated that the impugned proceedings are in violation of natural justice as no notice was issued before initiation of penalty proceedings and hence he constrained to file the present writ petition.

At the time of hearing the matter, learned counsel appearing on behalf of the petitioner submits that since no notice was served on the petitioner before passing the impugned order levying penalty for the assessment year 2003-04, and seeks permission of this Court to grant an opportunity to the petitioner to raise his objections before the respondent.

Learned Government Pleader for Commercial Taxes opposed the said submission.

Heard the learned counsel for the petitioner as well as the learned G P for Commercial Taxes. In view of the submission made by the learned counsel for the petitioner and also taking into consideration that no notice was issued to the petitioner, we feel it suffice that a direction be given to the respondent to consider the matter afresh after giving an opportunity to the petitioner.

In the particular circumstances of the case, the impugned proceeding dated 14-05-2007 issued by the Commercial Tax Officer-I, Ananthapur(respondent) is stayed subject to the condition of petitioner paying 1/4th amount of the penalty levied, through the impugned proceedings dt. 14.05.2007, within a period of six (6) weeks from the date of receipt of this order and file an application before the respondent. Further, we direct the respondent to consider the case of the petitioner afresh after giving an opportunity to it.

With the above directions, this writ petition is disposed of at the state of admission.

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T. MEENA KUMARI, J

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G ROHINI, J

Dt. 05.12.2007
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THE HON'BLE MRS. JUSTICE T. MEENA KUMARI
And
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W.P.no. 22812 of 2007

(Order of the Division Bench delivered by the Hon'ble Mrs. Justice T Meena Kumari) :

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05th December 2007